

Food Service Management Companies

School food authorities (SFA) considering contracting for food service with a private sector food service management company (FSMC) must contact the State Agency (SA) before initiating the bidding process. SFAs considering such a choice must contact the SA for information on Federal and State regulations delineating requirements and responsibilities. SFAs are required to use the templates provided by the SA for contracting with food service management companies.

When deciding whether contracting with a food service management company will provide the best possible food service operation, the SFA should consider all financial, administrative and operational issues. The SFA should allow enough time to properly analyze and answer all issues. This process should ideally begin one year prior to the start of a contract with a food service management company.

For information regarding specific regulations and procedures for contracting food operations with food service management companies, please refer to the United States Department of Agriculture (USDA) publication entitled *Contracting with Food Service Management Companies, Guidance for SFAs*. This publication can be obtained from the SA.

Important Point!

School Food Authorities are **required** to use the templates provided by the State Agency for contracting with food service management companies.

Procedures—Competitive Bidding/Competitive Proposal for a Food Service Management Company

1. Notify the SA of the intent of the SFA to contract with a FSMC. Information will be provided to the district about competitive bidding/proposal of food service and the proper procedures to follow. The initial term of the contract must be for one year and shall begin on July 1 and end on June 30 unless other periods have been pre-approved by the SA. However, conditions to extend the contract for four additional one-year periods may be included in the proposal.
2. The SFA must decide which method will be used to contract for food service, Invitation for Bid (IFB) or Request for Proposal (RFP). The SFA is required to use the templates developed by the SA and may not develop and/or submit their own IFB or RFP. A representative from the SA will meet with officials from the SFA to discuss the contents of the templates and to guide the SFA through completing the documents. Failure to use the templates provided by the SA shall result in Federal reimbursement funds being withheld.
3. The SFA will complete the State developed IFB or RFP and will mail to the SA for approval prior to the initial advertisement to seek bid/proposal for food service.
4. The SA will approve the IFB or RFP and the SFA may advertise the bid/proposal. A list of names and addresses of prospective bidders is included in the template.
5. The SFA must conduct a Pre-bid/Pre-proposal Conference for all interested bidders. All respondents to the public advertisement must be invited to the Pre-bid/Pre-proposal Conference. All questions asked by prospective bidders at the Prebid/Preproposal Conference must be responded to, in writing, by the SFA, with copies provided to all attending bidders and to the SA.

6. The SFA must allow a minimum of two weeks for interested bidders to complete and return RFP/IFBs.
 7. The SFA will establish a committee to evaluate the RFP/IFB. The committee may be comprised of principals, teachers, parents, administrators, and board members or other individuals agreed upon by the committee. Due to the complexity of the process, students should not serve as a committee member. An official from the SA shall be a member of the committee. However, the SA official will not participate as a voting member of the committee.
 8. The SFA must resubmit the proposed approved RFP/IFB to the SA for final review and approval.
 9. The approved RFP/IFB with all attached amendments submitted with the RFP/IFB becomes the final contract between the SFA and FSMC when signed. The signed contract with all amendments and documents included must be sent to the SA for final approval prior to implementation.
 10. The SFA must furnish the SA with the following documents.
 - A signed copy of the contract between the SFA and FSMC;
 - A copy of the surety bond;
 - A copy of the FSMC insurance policy with the SFA listed as additional insured.
 11. The SFA will be notified by the SA on final approval of the contract.
2. The SA will provide to the SFA the percentage increase from the *Food Away From Home Series* of the *Consumer Price Index*. The amount received is the maximum percentage increase allowed in the maximum price per meal.
 3. The SFA must furnish the SA with the following documents for approval of the contract renewal:
 - A letter stating the intent of the (Name) school district/school/agency to renew the contract with the (Name) FSMC for the (Year) upcoming school year;
 - A copy of any amendments, subcontracts, letter of agreement, or other relevant documentation pertaining to the contract which has not previously been furnished to this office;
 - An amended list of schools served, if the SFA has added/deleted schools/centers to/from the contract;
 - Documentation through cost or price analysis supporting a request for an increase in the per meal charge by the FSMC.
 4. The renewal package must be approved by the SA before the start of the upcoming school year.

Procedures for Renewal of FSMC Contract After the Initial One-Year Term

1. Notify the SA that the SFA is considering renewal of an existing contract with a FSMC. The SFA will be provided with any changes in regulatory requirements in the contracting process.

Important Point!

Approval from the State Agency is required for all Food Service Management Company contracts or renewals of contracts **before** implementation in the School Food Authority.

The SFA will be notified by the SA of the renewal approval/denial.

SFA Monitoring/Record Keeping Responsibilities

The SFA must monitor the operation of the FSMC through periodic on-site visits to ensure the FSMC complies with the contract and any applicable Federal, State, and local rules and regulations. The SFA should maintain documentation of its monitoring, any corrective action required, and whether or not corrective action was taken. The SFA must use Form 1 Section 10 Food Service Management Company On-Site Review, provided in this section. Full size copies for printing may be found in Section 27. The Food Service Management Company On-Site Review must be completed for each school concurrently with the required annual program on-site review prior to February 1 of each school year. A full size version of Form 1 Section 20 Food Service Management Company On-site Review for printing may be found in Section 27.

The SFA's contract monitoring responsibilities include, but are limited to the following:

Cycle Menu—the meal service adheres to the cycle menu and any and all deviations allowed under the contract.

Meal Pattern—the menu meets the meal pattern requirements specified in the contract and in 7 CFR Parts 210 and/or 220.

Claim Documentation—records, by school, to support the Claim for Reimbursement (meal/milk counts and any other data on the claim for which the FSMC is responsible).

Cost Records—cost records, including source documentation supporting charges for contractually approved costs for cost-based contracts, e.g., time and attendance records for staff hours charged.

Meal Count Records—meal count records for meals not covered by the Claim for Reimbursement, e.g., adult meals, etc.

Form 1 Section 20 Food Service Management Company Onsite Review, Page 1

FOOD SERVICE MANAGEMENT COMPANY ON-SITE REVIEW

SFA:	REVIEW DATE:
SCHOOL:	
CONTRACT PERIOD:	
FSMC:	

Name and title of representative appointed by SFA to monitor the contract agreement and procedure:

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| 1. On-site review of school is conducted by February 1. | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 2. Food purchases are monitored to insure compliance with specifications (identifications) submitted with contract. | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Food used in meal preparation, in terms of quality and condition, appear to meet the detailed procurement specifications (identifications) of the contract. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Menus planned by the FSMC are reimbursable and a daily nutritional analysis is available. (Obtain copies of FSMC menus and nutritional analysis.) | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Reimbursable meals are clearly identifiable at the school on day of visit. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Quality of food prepared/served appears to be acceptable. | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Daily meal choices are available to all students throughout the serving period. | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Prices charged to students were established by appropriate district officials and approved by the State Agency (SA). | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. A la carte (special sales) items to be sold to students and their charges are sold at the amount approved by SFA. A method for recording number of sales and monies collected is also available. | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. School is in compliance with competitive food regulations. | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. A current benefits issuance (master list) roster is available at the point of service. | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Applications (approvals) and verification procedures are completed by a principal or an acceptable designated representative. | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Meals appear to be correctly counted at the point of service and recorded by category. | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. If second meals are purchased by students, they are claimed as non-program meals (not claimed as reimbursable meals) and collected for accordingly. | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. Claim reviews (edit checks) are properly completed as prescribed by the SA. | <input type="checkbox"/> | <input type="checkbox"/> |

Form 1 Section 20 Food Service Management Company Onsite Review, Page 2

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| 16. The daily records of meal participation and income are checked by another staff member. | Yes
<input type="checkbox"/> | No
<input type="checkbox"/> |
| 17. Receipts are supported by validated bank deposit slips. | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. Records are available to support claim for reimbursement. | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. Receipts are verified by two persons daily. | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. The SFA monitors bills submitted by the FSMC for payment for accuracy. | <input type="checkbox"/> | <input type="checkbox"/> |
| 21. Records are available for three years plus current year. | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. All United States Department of Agriculture (USDA) food received and made available to the FSMC is used to the maximum extent possible and only in the SFA's nonprofit food service programs. | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. Annual physical inventories of USDA food received are submitted to SA. | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. Food rebates are reported accurately to the SFA. | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. The FSMC provides meal service to other programs/students/adults at this school site. | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. If above is applicable, the contracting/handling/costing of such meal service appears to be acceptable. (No SFS funds/food/labor/supplies, etc. are used; and a separate contract is used for all such meals) | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. The advisory board meets on a regular basis. (Obtain list of members and meeting minutes.) | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. Indicate how often board meets, and what positive contribution has been made this year as a result of the group (include names and/or meeting minutes). | <input type="checkbox"/> | <input type="checkbox"/> |
| 29. Student and parent involvement activities are documented. | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. Sanitation and safety standards appear to be acceptable. Date and numerical score of latest OHEC sanitation inspection: _____
List any areas cited as critical: _____ | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. All garbage and trash is placed in appropriate containers and placed in the area designated by the SFA for later removal. | <input type="checkbox"/> | <input type="checkbox"/> |

Comments: _____

Revenue Records—revenue records broken down by source, type, and category of meal or food service, e.g., a la carte sales, reduced-price and full-price, NSLP and SBP meals, vending machine sales, etc.

USDA Donated Foods—the amount and kind of donated food offered versus accepted to determine if the FSMC is accepting USDA donated foods to the maximum extent, in quantities that can be used and stored without waste. In addition, determine the donated food is being utilized to the maximum extent by the FSMC.

Advisory Board—examine records to determine frequency of board meetings and activities.

Student and Parent Involvement—determine activities occur and are documented.

Sanitation and Safety Standards—examine facility and check recent sanitation inspection. Note any areas cited as critical.

Additional Monitoring Responsibilities

The SFA must conduct on-site school reviews and must monitor through these reviews and by other means:

Civil Rights—compliance with civil rights requirements. In addition to monitoring compliance, the SFA must ensure the FSMC complies with the procedures established by the SFA for referring any civil rights complaints to the SFA.

Free and Reduced-price Policy—adherence to the SFA's approved free and reduced-price meal policy statement.

Offer Versus Serve—compliance with offer versus serve requirements.

Competitive Foods—compliance with the competitive food requirements of the child

nutrition programs in all schools by all parties.

SFA Policies—compliance with all policies established by the SFA.

Record Keeping Responsibilities

The SFA must maintain any books, documents, papers, and records directly pertinent to: the solicitation, award, or extension of any given contract and the implementation of that contract. Such records must be maintained for a period of three years, as specified in 7 CFR 210.23(c).

Food Service Management Company Contracts

USDA has reviewed several contracts between food service management companies and SFAs to ensure regulatory compliance. School districts should consider the following before entering into a food service management contract:

Return to District—Contracts that provide for food service management company guarantees, returns, or payments of funds back to the school district general fund are not allowed. While federally assisted programs should bear their fair share of cost, there is no provision for profit or other increments above the costs in these programs. Any revenues received from the school food service operation must accrue to the benefit of the nonprofit school food service account and be used only for the operation or improvement of such food service.

Percentage Assessments—Percentage assessments against total goods purchased or sold and labor or salaries are not allowed. These charges constitute cost-plus-percentage-of-cost income assessments that are prohibited. Salaries and benefits are an allowable cost but must be expressed as actual costs rather than a cost-plus-percentage-of-cost. Any charges

for procurement of goods naming the food service management company as procurement agent are prohibited.

Insurance—Requirements for excessive liability insurance certification for non-food service management company-approved vendors are unwarranted and restrict competition. Requirements that the insurance certification survive the termination of the contract are beyond the scope of the agreement. These requirements could be used to limit open and free competition by serving as a barrier to entry into the public bidding process for smaller businesses and for newly created businesses. All procurement transactions must be conducted in a manner that provides maximum open and free competition.

Meal Equivalent Rate—The meal equivalent rate is the adult lunch charge as established yearly by the SA. The adult lunch charge is based on the free meal reimbursement rate, plus the per meal value of commodities, plus State sales tax.

Amortization of Expense—Amortization of expenses can occur only for the one-year period of the contract. Interest charges placed on amortized expenses are prohib-

ited. Amortization of expenses for longer than one year would be beyond the scope of the contract and are not allowed.

Oversight—Regulations require that the school district retain control of the quality, extent, and general nature of its food service and the prices to be charged for meals. This requires the district to exercise financial and operational oversight by monitoring the food service management company and the execution of the contract.

Damages—Any provisions that require the school district to pay the food service management company damages for any food service management company employees hired by the district are prohibited by Federal law which restricts indemnification.

Interest on Late Charges—Any interest or late charge on amounts not paid when due is prohibited by Federal law. Interest and other financial costs are not allowable expenditures of child nutrition program/school food service funds.

Accounting Practices—Any accounting period referenced in a contract between a school district and a food service management company must be defined and utilized in a way that will provide monthly and yearly fiscal integrity for claims submitted to the South Carolina State Department of Education. A clear audit trail must be maintained with supporting documentation between the food service management company billings and the expenditure of child nutrition program/school food service account funds. It is the responsibility of the school district to ensure that the accounting system used by the food service management company is adequate and that adequate cost data is provided. Any billings from the food service management company to the school district, which are categorical sums representing fees for services, expenses, or products, must be accompanied by specific supporting

Important Point!

USDA has determined that all rebates accrued by the FSMC for food and supplies in the form of cash discounts, label allowances, group allowances, promotion allowances, “bill-backs” or other rebates must accrue to the SFA. In addition, all non-profit organization allowances must also accrue to the SFA.

documentation representing actual costs of the items in each category. Original invoices for expenses must be compared to amounts billed by the food service management company in all instances. Language designating these responsibilities should be included in all contracts.

Commodity Utilization—The contract must state that donated commodities will be “fully utilized in the school district nonprofit food service program.” The Federal reimbursement rates and commodity values included in the contract must be current for the school year to which the contract pertains.

Health Certification—All contracts must require the school district to maintain applicable health certification and assure that all State and local regulations are met by the food service management company personnel preparing and serving meals at the district facility.

Breach of Contract—Any Invitation to Bid or Request for Proposal must indicate nonperformance violations and specified sanctions defining breach of contract terms by the food service management company. The violations defined and the sanctions specified must also be included in the contract. These sanctions must be addressed in accordance with Federal and State procurement provisions.

Product Identifications—The contract between the district and the food service management company must require the food service management company to furnish detailed identifications for each food component included in the Invitation to Bid or Request for Proposal. Identifications shall cover items such as grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time.

Rebates

The FSMC purchases and pays for food and supplies for the SFA under a maximum allowable cost contract. The SFA then reimburses the FSMC for the food and supplies purchased. USDA has determined that all rebates accrued by the FSMC for food and supplies in the form of cash discounts, label allowances, group allowances, promotion allowances, “bill-backs”, or other rebates purchased for the SFA must accrue to the SFA. In addition, all non-profit organization allowances must also accrue to the SFA.